

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1893 OF 2004

Air-India Cabin Crew Association,	]	
Inflight Service Building,	]	
Medicon Bhavan, NITC, Sahar,	]	
Andheri (East),	]	
Mumbai 400 099	]	Petitioner

Versus

- | | | |
|--|---|--|
| 1. Union of India, |] | |
| Through Ministry of Civil Aviation, |] | |
| having Mumbai address at Aayakar |] | |
| Bhavan, New Marine Lines, |] | |
| Mumbai 2. |] | |
| 2. Air India Limited, |] | |
| Air India Building, Mumbai 400 021 |] | |
| 3. Director General of Civil Aviation, |] | |
| Old Airport, Santacruz (E), |] | |
| Mumbai 400 029 |] | |
| 4. Jitendra A. Bhargava, |] | |
| Director – HRD & Public Relations , |] | |
| Air India Limited, |] | |
| Nariman Point, Mumbai 400 021. |] | |
| 5. Ms. M.S. Chikliwala, |] | |
| Senior Manager – Cabin Crew |] | |
| Training, Air India Limited, |] | |
| Old Airport, Santacruz (E), |] | |

Mumbai 400029]
Respondents

WITH

CHAMBER SUMMONS NO. 190 OF 2004

Air-India Cabin Crew Association Petitioner

VERSUS

Union of India & Ors. ...
Respondents

AND

Indian Pilots Guild Applicant

Mr. Jamshed P. Cama with Mr. K.P. Anil Kumar
for the petitioner.

Mr. Suresh Kumar for respondent No.1.

Mr. Shekhar Naphade instructed by M/s. M.V. Kini & Co.
for Respondent No. 2

Mr. M.B. Singh for the Applicant.

CORAM: DALVEER BHANDARI, C.J. &
DR. D.Y. CHANDRACHUD, J.

Date of reserving
the Judgment : 31st August, 2004.

Date of
pronouncing: **29th September, 2004.**

JUDGMENT (Per Dalveer Bhandari, C.J.)

1. The petitioner has alleged that Air-India is violating the provisions of the Aircraft Act, 1934, the Training Manual for Cabin Personnel, the Aircraft Rules, 1937 and various other provisions, rules and regulations. We propose to deal with these regulations and provisions in the later part of our judgment. It is alleged that the newly-recruited cabin crew have either been released for solo flight, without having done a single training flight or without undertaking the mandatory minimum two training flights for each type of aircraft. [Ms.D.Malhotra](#), Senior Manager, Training, and A. Khan, Senior Manager, Cabin Crew Operations, affirm this illegality, which has been detailed in Exhibit ' A filed along with this petition.

2. The petitioner has expressed an apprehension that due to the presence of such untrained or inadequately-trained cabin

crew, the safety of the aircraft is endangered and so are the lives of passengers, regularly-trained crew and newly-recruited cabin crew members. In the unfortunate event of any accident or incident, the untrained cabin crew is not in a position to deal with the extra-ordinary situations and circumstances. The petitioner has enumerated Anticipated Inflight Emergencies, which are as follows:-

(1)Cabin preparation for crash landing or ditching (bombing in water).

(2)During an anticipated crash landing, the opening of the doors in the AUTO mode, failing which they can be opened in the manual mode.

(3)Manually inflating the slide / rafts and disconnecting them from the aircraft, erecting canopies, using the survival kit, the day / night signal flares, using the sea-dye

marker, etc.

3. The petitioner has also enumerated the major disadvantages of having untrained cabin crew on board:

(1) Every cabin crew flying solo is assigned a particular working position, which thus requires him / her to work independently in a particular galley complex or in a particular zone or area of an aircraft during the course of the entire flight. Thus, a cabin crew untrained in flight safety, replaces a trained cabin crew in flight safety in a particular galley or a zone / area in an aircraft. In such an event, the concerned untrained cabin crew is required to take care of any health-related emergencies, as well as to attend to any fires either in the cabin or the designated toilets, or coat compartments or

flight deck, etc. The concerned cabin crew is expected to handle all emergencies during a sudden decompression, removing smoke from the cabin, manually opening the oxygen units, walking around with portable oxygen cylinders, etc.

(2) Since the untrained cabin crew member has been assigned to work independently in a particular galley, he / she is expected to extinguish all types of fires with the right type of extinguisher occurring due to electrical faults in the ovens, warmers, freezers, hot flasks, hot cups, etc.

4. The petitioner has also enumerated Unanticipated Inflight Emergencies , which are enumerated as under:-

In an unanticipated inflight emergency which is sudden and without any forewarning, the

cabin crew untrained in flight safety shall firstly be at a loss to handle the emergency. Whereas a trained cabin crew member, by virtue of being fully trained and has been conducting pre-flight checks of all emergency equipment for years, is well versed with all the locations, and thus his / her training helps him / her in quickly responding to the emergency and handle it with a practised preparedness and confidence, thus preventing the damage either completely or at least minimizing the damage to the aircraft and safeguarding the lives of the passengers and the crew.

5. On the other hand, the untrained cabin crew, working independently in a particular zone of the passenger cabin or a galley, will react in a totally different way. Since he / she does not even have the idea or knowledge of the location of the emergency equipment, its specific uses for specific

emergencies, he / she shall not be in a position either to positively respond to the emergency or handle it with despatch. This will result in damage to the aircraft and shall jeopardise the lives of the passengers.

6. Besides the above, the presence of such untrained cabin crew in flight safety shall in the following circumstances not only exacerbate the emergency, but may also inadvertently aid in endangering the safety of the aircraft, the lives of the passengers, the other crew members, of himself / herself as well as becoming a hindrance and a liability during an inflight emergency. Thus, he / she -

(i) may abandon his / her emergency working position and run to seek help from a trained cabin crew working in another part of the aircraft.

(ii) may flounder and take measures on his / her own which may not be the correct ones.

(iii) may try to extinguish an electrical fire with a water fire extinguisher resulting in electrical shock to the untrained crew himself / herself.

(iv) shall not be able to handle a health-related emergency like a heart attack, epileptic fits, etc., since he / she would not know the location and operation of Oxygen Cylinders, which are very common on Air-India's flights.

(v) may open the door in the MANUAL mode and not in AUTO mode during an emergency evacuation.

(a) Therefore, due to the presence of the untrained cabin crew, the regular cabin crew trained in flight safety shall not only have to

handle an emergency in his / her zone, but also handle an emergency in the other zone or galley of the untrained cabin crew. More than that, a trained cabin crew also has to ensure that the untrained cabin crew does not respond with the wrong measures which will further exacerbate the emergency and place in greater danger the safety of the

aircraft, the passengers, the crew, both trained and untrained crew themselves.

(b) The last major disadvantage relates to breach of passenger's trust by the Respondent – Air-India.

The passengers seated in the zone independently assigned to an untrained cabin crew are not aware that the individual

cabin crew is untrained in flight safety, First Aid, handling dangerous goods, bomb scares, etc. They are being intentionally given the impression that the cabin crew is properly trained and is fully capable of handling any inflight emergency. They trust the individual cabin crew, without realizing that he / she is as ignorant as them, perhaps more so, about locations and properly handling the safety equipment or about providing first aid, giving oxygen in the event of breathlessness, heart attacks, etc. To compound matters, Air-India, knowingly and intentionally does not disclose this primary fact to the passengers, even though it is fully aware that by doing so, it is not only breaching the trust of the passengers faithfully placed in it, but that it is also aware of the disastrous consequences upon the safety of the

aircraft and also upon the lives of the passengers and its own employee – crew members.

(c) No self-respecting Trade Union can stand idly by, when the lives of passengers as well as the livelihood and lives of its own members are put at stake by callous acts of the respondent-Company.

7. The learned counsel for the petitioner submitted that the aforestated policies and actions of the respondents came to the knowledge of the petitioner initially in the month of February, 2004, when it was informed that the flight safety training was not given to the newly-recruited cabin crew and for some of them, the duration of the training was not for the prescribed period, as well as the trainers were not qualified as per the rules. The petitioner immediately addressed a letter on 9th February, 2004. Therein, the petitioner highlighted that the flight safety instructors were not qualified in respect of

flight safety training, and to the best of their knowledge, they were not approved by the Director-General of Civil Aviation (for short “DGCA”).

8. It is also incorporated in the petition that despite the aforestated letter of the petitioner dated 9th February, 2004, the respondents proceeded with the illegal training method and in total perpetration of the illegality, sought even to detail cabin crew without even *ab initio* training. It is also mentioned that the petitioner met the General Manager, Inflight Services Department. Again, after February, 2004, the petitioner met the General Manager, as well as the Director - HRD & Public Relations, Air-India, and brought to their notice what was happening in Air-India. Though they assured that they would look into the matter, but unfortunately, violation continued, and untrained cabin crew continue to remain on board the Air-India aircraft. The petitioner also addressed a letter to respondent No. 5, Senior Manager – Cabin Crew Training, Air-India. Yet, no steps were taken in pursuance of the petitioner's request. It is

alleged that the petitioner was not in a position to exactly determine the person or authority within the organisation of Air-India, who or which is behind this illegal and disastrous policy. Therefore, the petitioner was left with no option but to address a letter to the DGCA on 4th June, 2004, pointing out the blatant violations of the Aircraft Act, Rules and Civil Aviation Requirements being committed by respondent Nos. 2, 4 and 5. The petitioner has not received any response. It is submitted that despite persistent requests by the petitioner, no steps have been taken by the respondents to take corrective measures. It is also incorporated in the petition that it appears that the respondents are awaiting a disaster to happen, as normally in any public sector undertaking, for correcting their illegal actions. It is submitted that the petitioner was left with no alternative but to approach this Court to restrain the respondents from releasing the cabin crew to operate flights without full, proper and approved training for the prescribed period.

9. In response to the petition, reply-affidavits of B.R. Gaikwad,

Deputy General Manager (HRD) of Air-India, and T. Mohan Chandran, Assistant Director (Operations), have been filed.

10.Mr. B.R. Gaikwad, on behalf of respondent No. 2, Air-India, submitted in the affidavit that the petition is misconceived, untenable and has been filed with oblique motive. It is submitted that Air-India has at all times complied with and even now continues to comply with the provisions of Rule 38B of the Aircraft Rules. It is mentioned that Air-India has, out of abundant caution, fixed the minimum crew complement at 12, on its own accord, though it is fully entitled, under the said Rule 38-B, to operate service with 9 cabin crew. It is also mentioned that while rostering crew in the past two months, the second respondent has been ensuring that a minimum of 14 (12 + 2) flight safety trained cabin crew are available, and only after this minimum stipulation has been met with, the airline is adding non-flight safety cabin crew, so that passenger services, as committed to them, with full crew complement, are provided. In the affidavit, it is submitted that the purpose of filing this petition is really not the safety of

the passengers, but to continue to get higher emoluments from Air-India.

11.The learned counsel for the petitioner, Mr. Jamshed P. Cama, very candidly submitted that in this petition, they are not praying for any directions with regard to emoluments or any financial gain for the petitioner-association. Therefore, we do not deem it either necessary or proper to examine this issue.

12.T. Mohan Chandran, in his affidavit filed on behalf of Air-India, has mentioned that there is no violation of safety norms by Air-India. He submitted that the petitioner's apprehension is grossly misconceived and unfounded. This petition is an attempt to blackmail the concerned institutions on the pretext of safety norms and by creating fear psychosis in the minds of the travelling public. In this affidavit, the deponent has stated that there is no violation of the provisions of the Act, Rules, Regulations, Training Manual, etc. In view of this affidavit, it has become imperative to examine the relevant provisions of

the Act, Rules, Regulations, in order to arrive at the conclusion whether Air-India is violating the provisions of the Act, Rules and Regulations or strictly adhering to them.

13. Air-India is a national air carrier. It is also a designated air carrier in the various bilateral air transport agreements entered into between the Government of India and various other countries. Air-India is covered by all statutory and non-statutory regulations applicable to companies operating aircrafts for its operation inside as well as outside the country.

14. Two types of employees are engaged, namely, flight crew and cabin crew. The flight crew consists of pilots and flight engineers and the cabin crew consists of inflight supervisors and flight pursers, assistant flight pursers and air hostesses. The grievance is made about the cabin crew.

15. There are various international statutory obligations under the Chicago Convention, to which India is a signatory, and various bilateral air transport agreements are to be strictly

adhered to by Air-India in respect of flight safety while operating its fleet of aircrafts. The Chicago Convention was created by the International Civil Aviation Organisation (ICAO) which, besides being a specialized agency of the United Nations, is the apex regulatory and rule-making body which governs international civil aviation. Annexure 6, Part I, of the Convention deals with the Training of Cabin Crew in the specific matter of flight safety and their deployment on aircrafts only after completion of the same.

16.It is alleged that Air-India is under the control and supervision of DGCA in order to ensure that Air-India functions strictly in accordance with the provisions of the Act and the Rules.

17.The learned counsel appearing for the petitioner, Mr.Jamshed P. Cama, has drawn our attention to Rule 38-B of the Aircraft Rules, 1937, which exclusively deals with Carriage of Cabin Attendants (Crew) on board the aircraft. Rule 38-B(1) deals with the minimum Cabin Crew

Complement on an aircraft. Rule 38-B(2) deals with the seating location of Cabin Crew at the time of take-off and landing for emergency evacuation. Rule 38-B(3) mandates that each cabin attendant shall, before being detailed for duty on board the aircraft, successfully complete an approved course of training followed by periodical approved refresher course concerning evacuation procedure, location and use of emergency equipment. Rule 38-B reads as under:-

“Carriage of cabin attendants

(1) Every public transport aircraft, carrying passengers and registered in India shall have on board, the following minimum number of cabin attendants, for the purpose of performing such duties as may be assigned, in the interest of the safety of the passengers, by the operator or the Pilot-in-Command of the aircraft, namely:-

- | | |
|---|--|
| (a) For aircraft having a seating capacity of not less than 10 and not more than 50 passengers. | One attendant |
| (b) For aircraft having a seating capacity of more than 50 and not more than 99 passengers. | Two attendants |
| (c) For aircraft having a seating capacity of more than 99 passengers. | Two attendants plus one attendant for each unit (or part of a unit of 50 passenger seats) above a seating capacity of 99 passengers. |

(2) The cabin attendants shall be located--

(i) during take-off and landing, as near as possible to the floor level exits, and

(ii) at any other time, at some suitable place in the aircraft, so as to provide the most effective exit of passengers in the event of emergency evacuation.

(3) Each cabin attendant shall, before being detailed for duty on board the aircraft, successfully complete an approved course of training followed by periodical approved refresher course concerning

evacuation

procedure, location and use of emergency equipment.

(4) The Director-General may, if he is of opinion that it is expedient so to do, by order and for reasons to be recorded in writing, waive fully or partially, the requirement of sub-rule (1).”

18. According to the petitioner, the following conclusions are drawn:

(1) There are two types of flight safety courses, viz., the detailed induction / *ab-initio* course at the time of joining and the refresher course thereafter conducted annually which has limited scope.

(2)The training course should have been approved by the second and third respondents.

(3)Each and every newly-recruited cabin crew should have successfully completed the approved induction, *ab-initio* flight safety course securing a minimum of 80% (Chapter 4.8, Para 2 of the Flight Safety Manual) before being detailed for duty on board of each type of the aircraft; *i.e.*, no cabin crew can be detailed for duty until and unless he / she has successfully completed the *ab-initio* (initial/induction) course.

(4)Neither respondent No. 2 nor its officers viz. Respondent Nos. 4 and 5, have the power or authority to release or detail any cabin crew who has not successfully completed fully an approved course of *ab-initio*

(initial/induction) training for the prescribed period.

19.Mr. Cama has also drawn our attention to Rule 38-B(4), which gives power to DGCA to pass an order and for reasons to be recorded in writing, to waive, fully or partially, only the requirement of sub-rule (1), which deals with the minimum cabin crew complement. Even DGCA does not have the power to grant any waiver or dispensation to any air carrier operating scheduled flights with regard to matters in sub-rules (2) and (3). DGCA cannot grant any waiver to respondent Nos. 2, 4 and 5 to release or detail for duty any newly-recruited cabin attendant, who has not successfully concluded the full and approved course of flight safety training for the prescribed period. DGCA cannot issue any similar directions under Rule 133-A, which would permit such a course of action by respondent Nos. 2, 4 and 5 as they would be inconsistent with the Aircraft Act and Rules since the presence of such untrained cabin crew to operate the

flight and the aircraft will severely jeopardize the safety of the aircraft, the passengers and all the crew, including themselves.

20. The petitioner submitted that respondents Nos. 1, 2, 4 and 5 have deliberately and wilfully given a go by to the approved instructions as contained in the Flight Safety Manual in respect of training of cabin crew by technically unqualified trainers. The said respondents have resorted to engaging unqualified trainers, like retired Inflight Supervisors and serving Inflight Supervisors, who were totally ineligible and technically unqualified to conduct training as per eligibility criteria prescribed by respondent No. 2 itself. This also violates directions of respondent No. 3. The petitioner submitted that the petitioner is adversely affected by the conduct of the said respondents not only in its capacity as a representative of the cabin crew, but also as a collective body of servants working in the Government-owned company, which is a public property, whose lives and safety are under challenge. The petitioner also submitted that the said

respondents have not only continued with detailing untrained cabin crew on the aircraft, but have also resorted to detailing certain cabin crew, who are not even trained for flight safety. The petitioner submitted that the illegal detailing of untrained cabin crew would create problems within the aircraft. The trust of the passengers, which respondent No. 2 presently has,

would be severely affected by it being flooded with untrained cabin crew.

21.The petitioner submitted that even the trained cabin crew would be at risk at any point of emergency in the presence of untrained cabin crew. The duties inside the aircraft are assigned. The cabin crew are posted in the zones and are independently in-charge of certain number of passengers. The entire trained cabin crew, thus, would be in-charge of some zone and untrained cabin crew, similarly, would be in charge of certain zones.

22.The petitioner enumerated and visualised the following eventualities in which untrained cabin crew would be a safety hazard:-

(i)To locate and administer Oxygen or even First Aid to a passenger in case of breathlessness, heart attacks, etc., in a medical emergency.

(ii)To locate the correct fire-fighting equipment and thus, extinguish the fire in a galley, the cabin or the toilets.

(iii)To operate the doors in the auto mode. In the event of a malfunction, he / she will not be able to manually inflate the slide / raft or even deploy it during land evacuation or ditching in water.

(iv)To erect canopies on the life rafts or

operate the radio beacons or signal flares.

(v) To conduct smoke removal procedures.

(vi) To operate emergency and evacuation controls, etc., etc.

23. The petitioner submitted that the impugned illegal conduct of respondent Nos. 1, 2, 4 and 5 cannot ensure the lives and safety of the passengers, cabin crew, as well as the aircraft. The petitioner also submitted that the said respondents are guilty of infringing upon the lives of the cabin crew and others and, therefore, there is a violation of Article 21 of the Constitution of India and for this reason also, the impugned action of the said respondents is liable to be set aside.

24. The petitioner prays for a writ of mandamus, directing respondent Nos. 1, 2, 4 and 5 -

(a) To stop this policy of releasing untrained cabin crew to operate as regular cabin crew

without the knowledge of the passengers, which policy be struck down and be declared as *ultra vires* the Chicago Convention, the Aircraft Act, 1934, the Aircraft Rules, 1937 and various directions / Civil Aviation Requirements of the DGCA and the Certified Flight Safety Manual.

(b) that the said respondents be prohibited from reintroducing the same or similar policy for future recruits.

(c) that the new recruits, like the earlier trained cabin crew (Pre-2003), be trained only by the technically qualified Flight Safety Instructors of the Operators Department of the second respondent and not by technically unqualified and inexperienced serving and retired Inflight Supervisors of the Inflight Service Department, as is presently the case.

(d) to recall each and every newly recruited cabin crew presently released to fly as a trainee or released for solo flying, but who has not undergone the inflight training of two months and the completed *ab initio* (initial/induction) flight safety training as prescribed by the DGCA.

(e) to cease and desist from releasing the newly trained cabin crew for solo flying until and unless they operated a minimum of two trainee flights and have been found fit to do so by the senior cabin crew who train them. It should also be subject to the approval of the Inflight Supervisor, as has always been the past procedure and practice for decades.

(f) that the new recruits be given their full and approved course of training for the prescribed

period both for inflight and flight safety in all classes on all types of aircrafts, before they are released for trainee flights.

25.The Deputy General Manager (HRD), in his affidavit filed on behalf of respondent No. 2, submitted that each airline determines its own cabin crew complement, depending upon the seating configuration, service procedure and productivity of cabin crew. It is mentioned that Air-India provides 19 cabin crew for a 747 Aircraft, as against 15 cabin crew provided by airlines like Cathay Pacific, KLM, Qantas, etc. It is further mentioned that the number of cabin crew on board is not solely dependent on the safety aspect, which the petitioner has contended in this petition, but has a lot more to do with the kind of service on board. It is further mentioned that in a 747 Aircraft, a minimum of 14 (12 + 2) flight safety trained cabin crew is available, and only after this minimum stipulation has been met with, is the airline adding non-flight safety cabin crew, so that passenger services, as committed to them, with full crew complement, are provided.

Respondent No. 2 has further stated in the affidavit that Air-India always has the statutory minimum crew, who are flight safety trained. It is also mentioned that safety of the passengers is never compromised and the statutory minimum crew complement was adequate enough to look after them.

26.The petitioner has submitted that the Chicago Convention is only recommendatory in nature. These are in the form of standards and recommended practices. However, respondent No. 2 has never violated the recommended practices. It is also incorporated in the affidavit that more cabin crew have been detailed to give personalised service to the passengers. The enhanced cabin crew complement, over and above the statutory minimum requirement, is providing on board first class service to the passengers, and this is in consonance with the Agreement of 1995. It is mentioned that the question of jeopardising the safety of the passengers and crew does not arise at all.

27.In a separate affidavit filed by T. Mohan Chandran, Assistant

Director (Operations), Air-India, it is mentioned that all requirements of the Aircraft Rule 38-B and Civil Aviation Requirements (CAR) Section 7, Series M, Part I, regarding Cabin Attendant Training are being followed in toto, and there is no violation of the Aircraft Rule and CAR.

28. On the pleadings of respective parties, it is admitted position that Air-India Complement of Cabin Crew consist of trained and untrained members of the Cabin Crew. According to the stand of the respondents, Air-India does not violate any conventions, rules or regulations once it carries minimum number of trained Cabin Crew on the aircraft. Carrying extra untrained Cabin Crew for rendering other services on Board, does not violate or infringe any conventions, rules and regulations – national or international. This is seriously disputed by the petitioner. According to the petitioner-association, Air-India cannot carry any extra untrained member of the Cabin Crew even if it carries minimum number of trained members of the Cabin Crew on the aircraft.

29. We have carefully considered the submissions of the parties and perused relevant conventions, rules and regulations. The argument of Air-India cannot be accepted, being contrary to conventions, rules and regulations. On proper analysis of conventions, rules and regulations, it is abundantly clear that Air-India cannot carry any untrained member of the Cabin Crew on the aircraft. We find sufficient basis, rational and proper justification of the stand of the petitioner.

30. Presence of untrained or inadequately-trained Cabin Crew can be dangerous to the lives of the passengers and safety of the aircraft. In the event of unfortunate accident or incident, the untrained Cabin Crew cannot deal with extra-ordinary situations and circumstances. Only the trained Cabin Crew is expected to encounter anticipated and un-anticipated emergencies.

31.(1) The untrained Cabin Crew is expected to be of no help even in case of crash landing or ditching. Similarly, untrained Cabin Crew may not be of much assistance in opening the doors in auto mode or manually. In case of

emergencies, the untrained Cabin Crew may not be of any assistance for manually inflating the slide / rafts and disconnecting them from the aircraft, erecting canopies, using the survival kit, the day / night signal flares, and using the sea-dye marker.

(2) The untrained Cabin Crew may not be able to handle emergencies during a sudden decompression, removing smoke from the cabin, manually opening the oxygen units and walking around with portable oxygen cylinders.

(3) The untrained Cabin Crew may not be trained in extinguishing all types of fires with the right type of extinguisher occurring due to electrical faults in the ovens, warmers, freezers, hot flasks, hot cups, etc.

(4) The untrained Cabin Crew, in an un-anticipated inflight emergency, shall be at a loss to handle the emergency. Whereas a trained cabin crew member, by virtue of being trained fully and has been conducting pre-flight checks of all emergency equipment for years, is well versed with all the

locations, and thus his / her training helps him / her in quickly responding to the emergency and handle it with a practised preparedness and confidence, thus preventing the damage either completely or at least minimizing the damage to the aircraft and safeguarding the lives of the passengers and crew.

(5) The mere presence of the untrained Cabin Crew, in unfortunate event, can be a source of threat to the lives of the passengers as well as the crew and safety of the aircraft.

32. On an analysis of the relevant rules, the legal position is clear that Air-India or its officials have no power or authority to release or detail any cabin crew who has not successfully completed an approved course of training for the prescribed period. Rule 38-B(4) of the Aircraft Rules gives power to DGCA to pass an order and for reasons to be recorded in writing, to waive fully or partially, only the requirement of sub-rule (1) which deals with the minimum cabin crew complement. It does not have the power to grant any waiver

or dispensation to any air carrier operating scheduled flights with regard to matters in sub-rules (2) and (3). Thus, it cannot grant any waiver to Air-India, Director – HRD & Public Relations and Senior Manager – Cabin Crew Training to release or detail for duty any newly recruited cabin attendant who has not successfully completed the full and approved course of flight safety training for the prescribed period and neither can the DGCA issue any similar directions under Rule 133A which would permit such a course of action by Air-India, Director – HRD & Public Relations and Senior Manager – Cabin Crew Training as they would be inconsistent with the Aircraft Act and Rules since the presence of such untrained cabin crew to operate the flight and the aircraft shall severely jeopardise the safety of the aircraft, the passengers and all the crew including themselves.

33. On Court's query, counsel for the respondent – Air-India – fairly submitted that Air-India is the only airline in the world which is carrying the untrained Cabin Crew, along with the trained Cabin Crew, on board. Even in domestic sector, no

other airline, except Air-India, permits the untrained Cabin Crew to be on board, along with the trained Cabin Crew. Even Air-India has started this practice some times in February, 2004.

34.On the basis of pleadings and submissions which were made at the Bar, it is abundantly clear that respondent – Air-India, its Senior Manager – Cabin Crew Training, other officials and Cabin Crew have not strictly followed the Chicago Conventions, the Aircraft Act, Rules, DGCA Regulations and the Cabin Crew Flight Safety Manual.

35.In the facts and circumstances, as explained above, it has become imperative, in the interest of justice, safety of the passengers and security of the aircraft, to give following directions:-

(1)Consequently, Air-India is restrained from carrying the untrained Cabin Crew, along with the trained Cabin Crew, on board.

(2) Air-India is directed not to permit any member of the Cabin Crew to be on board who has not successfully concluded the full and approved course of life-saving training for the prescribed period.

(3) Air-India is directed to withdraw untrained members of the Cabin Crew forthwith. However, Air-India would be at liberty to place them on board again immediately after they complete requisite training.

36. This Writ Petition is allowed. In the peculiar facts and circumstances, the parties are directed to bear their own costs.

37. The Chamber Summons does not survive, and the same stands disposed of accordingly.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD,J.